

1 **RYLEY CARLOCK & APPLEWHITE**

2 One North Central Avenue, Suite 1200

3 Phoenix, Arizona 85004-4417

4 Telephone: 602/258-7701

5 Telecopier: 602/257-9582

6 John J. Fries – 007182

7 jfries@rcalaw.com

8 Josh Kahn – 026284

9 jkahn@rcalaw.com

10 Attorneys for Maureen Gaughan,

11 Chapter 11 Trustee

12 **IN THE UNITED STATES BANKRUPTCY COURT**

13 **FOR THE DISTRICT OF ARIZONA**

14 In re:

15 C.M.B. III, L.L.C.,

16 Debtor.

Chapter 11 Proceedings

Case No. 2:10-bk-30496-GBN

**TRUSTEE'S RESPONSE AND LIMITED
OBJECTION TO THE DEBTOR'S PLAN
OF REORGANIZATION**

17 Maureen Gaughan, the Chapter 11 Trustee, hereby files her response and limited
18 objection to the Debtor's Plan of Reorganization. The Trustee was appointed pursuant to the
19 Order Granting Creditor Union Fidelity Life Insurance Company's Motion for Appointment of
20 Chapter 11 Trustee (the "Appointment Order", DE #126) to investigate, report on, prosecute and
21 otherwise pursue any and all claims of the Debtor's bankruptcy estate against insiders, affiliates,
22 or companies or persons with common ownership of the Debtor, including, but not limited to, all
23 claims for outstanding avoidable transfers arising under 11 U.S.C. §§ 544 - 551. The Trustee is
24 still in the process of conducting her investigation and determining whether to prosecute an
25 action on behalf of the Debtor's estate. The Trustee does not take a position on the merits of
26 the Debtor's Plan or whether it should be confirmed, but the Trustee does object to the Plan to
27 the extent it purports to limit her ability to investigate and potentially pursue, on the estate's
28 behalf, a cause of action against insiders, affiliates, or other persons or entities in common
ownership to the Debtor, or to otherwise comply with her duties and responsibilities as set forth
in the Appointment Order.

1 Respectfully submitted this 12th day of May, 2011.

2 RYLEY CARLOCK & APPLEWHITE

3
4 By /s/ Josh Kahn

5 John J. Fries

6 Josh Kahn

7 One North Central Avenue, Suite 1200

8 Phoenix, Arizona 85004-4417

9 Attorneys for Maureen Gaughan,

10 Chapter 11 Trustee

11 The foregoing was electronically filed
12 with the U.S. Bankruptcy Court on this
13 12th day of May, 2011.

14 A copy of the foregoing was served upon
15 the following parties, by First-Class
16 U.S. Mail and/or e-mail on this 12th day of
17 May, 2011.

18 U.S. Trustee
19 Office of the U.S. Trustee
20 230 North First Avenue, Suite 204
21 Phoenix, Arizona 85003

22 Richard M. Lorenzen
23 Perkins Coie LLP
24 2901 North Central Avenue, Suite 2000
25 Phoenix, Arizona 85012-2788
26 Email: rlorenzen@perkinscoie.com
27 Attorneys for the Debtor

28 Barbara Lee Caldwell
CALDWELL PADISH & WELLS
7333 E. Doubletree Ranch Road, Suite 255
Scottsdale, AZ 85258
bcaldwell@cpwlawyers.com
Attorneys for Maricopa County

By: /s/ Josh Kahn
Josh Kahn